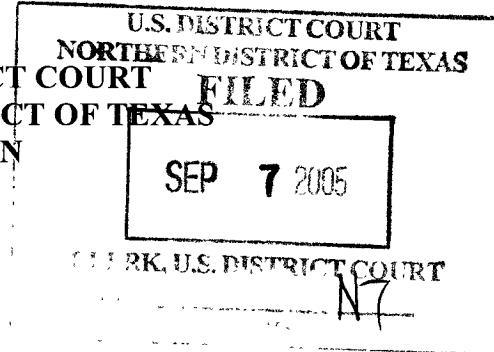


ORIGINAL

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



THE VERIZON EMPLOYEE
BENEFITS COMMITTEE,

Plaintiff,

v.

MELISSA ADAMS,

Defendant.

Civil Action No.
3-05 CV-1793 M
222825

**COMPLAINT SEEKING RECOVERY OF OVERPAYMENT, CONSTRUCTIVE
TRUST AND INJUNCTIVE RELIEF**

This is an action brought by the Verizon Employee Benefits Committee to recoup overpayments of benefits from the Verizon Management Pension Plan (the “Plan”) made to Defendant Melissa Adams as a result of an administrative error.

Parties

1. Plaintiff, the Verizon Employee Benefits Committee, is the “administrator” and “fiduciary” of the Plan as that term is defined in the Employee Retirement Income Security Act of 1974 (“ERISA”). *See* ERISA §§ 3(16) & 3(21), 29 U.S.C. §§ 1002(16) & (21). The Plan is an ERISA-covered pension plan within the meaning of ERISA § 3(1), 29 U.S.C. § 1002(1). As administrator and fiduciary of the Plan, the Verizon Employee Benefits Committee has the discretionary authority to interpret the Plan, to exercise control over disbursements of assets in the Plan, and to perform various other tasks necessary to administer the Plan. Responsibility for day-to-

day administration of the Plan (including recoupment of overpayments) has been delegated by the Verizon Employee Benefits Committee to the pension administration department within the Verizon human resources department in Coppell and Irving, Texas.

2. Defendant Melissa Adams ("Adams") is a former participant in the Plan. She resides at 2344 Thornton Avenue, Harrisburg, Pennsylvania 17109.

Jurisdiction and Venue

3. This Court has jurisdiction over the subject matter of this action pursuant to 29 U.S.C. §§ 1132(a)(3) & (e)(1), and under 28 U.S.C. § 1331.

4. Venue is proper in this Court pursuant to 29 U.S.C. § 1132(e)(2) because the Plan is administered in this judicial district.

Factual Background

5. Defendant Adams is a former employee of Verizon Communications Inc. and/or its subsidiaries and predecessor corporations ("Verizon"). Adams' original employment with Verizon began on February 2, 1972. On May 31, 1996, Adams retired and received a lump sum pension benefit in full satisfaction of the pension she earned under the Plan.

6. On June 29, 1998, Adams was rehired by Verizon and remained employed until she retired a second time on November 22, 2003. Following her second retirement, in January 2004, Adams received a second lump sum pension distribution from the Plan in the amount of \$381,039.67.

7. Under the terms of the Plan, Adams was entitled to receive a lump sum benefit of \$160,932.73 from the Plan based on her second retirement in November of 2003.

8. However, in January 2004, due to an administrative error, the Verizon Benefits Center mistakenly paid Adams a lump sum benefit of \$381,039.67. This benefit was \$220,106.94 more than Adams was entitled to receive under the terms of the Plan. This overpayment was based on a benefit calculation that did not properly offset the prior pension distribution that Adams received in May 1996. The Plan's terms provide the specific basis for calculating Adams' pension. Under the terms of the Plan, Adams is not entitled to the full amount of the lump sum benefit that was paid to her in January 2004.

9. After discovering the overpayment made to Adams, Verizon's pension department wrote to Adams on behalf of the Verizon Employee Benefits Committee explaining the payment error and requesting that Adams remit the overpayment to the Plan.

10. Adams has not returned the overpaid pension funds to the Plan, nor has she indicated that she will return the overpaid funds.

11. This action seeks to recover funds paid by the Plan and that are in the constructive possession and legal control of Adams, but belong in good conscience to the Plan.

Count I

12. Plaintiff incorporates by reference the factual allegations of paragraphs 1-11 above.

13. Pursuant to 29 U.S.C. § 1132(a)(3), plaintiff is entitled to appropriate equitable relief to enforce the terms of the Plan providing that an employee with the salary and service history of Adams receive a lump sum benefit of \$160,932.73, but nothing more, and to enforce the requirements of 29 U.S.C. § 1104. Plaintiff is entitled to impose a constructive trust on the overpayment of \$220,106.94, wherever it may be found, and to receive equitable restitution in the same amount to recoup the assets that rightfully belong to the Plan.

14. Plaintiff has no adequate remedy at law.

WHEREFORE, Plaintiff prays for the following relief:

(a) That the Court enter a preliminary injunction prohibiting Defendant Adams from dissipating, transferring, pledging, spending, transferring, disposing, or encumbering the overpayment of \$220,106.94, except to transfer the overpayment to the Plan or its agent, until this case can be resolved on the merits. Failure to grant such relief would result in a substantial threat that plaintiff will suffer irreparable harm.

(b) That the Court enter a judgment for plaintiff on Count I, impose a constructive trust in the amount of \$220,106.94 on the funds and/or equitable liens on the accounts, funds, or real property where those funds may be traced, and grant plaintiff the remedy of equitable restitution in the amount of \$220,106.94.

(c) That the court award pre- and post-judgment interest.

(d) That the court award plaintiff attorney's fees pursuant to 29 U.S.C. § 1132(g).

(e) Any other relief as the Court deems appropriate under the circumstances.

Respectfully submitted this 7th day of September, 2005.

MUNSCH HARDT KOPF & HARR, P.C.
4000 Fountain Place
1445 Ross Avenue
Dallas, Texas 75202-2790
(214) 855-7500 (telephone)
(214) 855-7584 (telecopy)

By: 
Grant H. Teegarden, #50511849

ATTORNEYS FOR PLAINTIFF

M/BH
ORIGINAL

CIVIL COVER SHEET

722825

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

I. (a) PLAINTIFFS

Verizon Employee Benefits Committee

DEFENDANTS

Melissa Adams

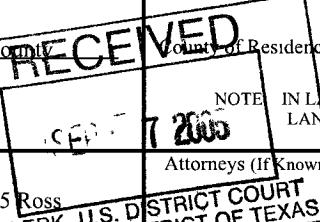
3 - 05 CV - 1793 M

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

Dallas County

(c) Attorney's (Firm Name, Address, and Telephone Number)

Grant H. Teegarden, Munsch Hardt Kopf & Harr, P.C., 1445 Ross Avenue, Suite 4000, Dallas, Texas 75202; (214) 855-7500



II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

 1 U.S. Government Plaintiff 3 Federal Question
(U.S. Government Not a Party) 2 U.S. Government Defendant 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 425 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 430 Liquor Laws	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 440 R.R. & Truck	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 450 Airline Regs	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage	<input type="checkbox"/> 460 Occupational Safety/Health	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury	<input type="checkbox"/> 490 Other	<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury		PROPERTY RIGHTS	<input type="checkbox"/> 550 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 570 Customer Challenge
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 590 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 610 Agricultural
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 861 HIA (1395f)	<input type="checkbox"/> 630 Black Lung (923)
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:	<input type="checkbox"/> 862 DIWC/DIWW (405g)	<input type="checkbox"/> 650 Airline Regs
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 863 SSID Title XVI	<input type="checkbox"/> 660 Occupational Safety/Health
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 864 RSI (405g)	<input type="checkbox"/> 670 Railway Labor Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 680 Other Labor Litigation
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 690 Other
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition		FEDERAL TAX SUITS
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 700 Economic Stabilization Act
			<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 893 Environmental Matters
				<input type="checkbox"/> 894 Energy Allocation Act
				<input type="checkbox"/> 895 Freedom of Information Act
				<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
				<input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened

Transferred from another district (specify)

 6 Multidistrict Litigation

Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

VI. CAUSE OF ACTION

Brief description of cause: ERISA section 502(a)(3), complaint seeking reimbursement of overpayment and constructive trust

VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint.
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE

9/9/05

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE